

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 16, 2002

IN RE:

COMPLAINT OF XO TENNESSEE, INC.
AGAINST BELL SOUTH
TELECOMMUNICATIONS, INC.

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DOCKET NO.
01-00868

ORDER ON MOTION TO TAKE DISCOVERY

This docket came before the Hearing Officer for consideration of the *Motion to Take Discovery* ("Motion") filed by the Consumer Advocate and Protection Division ("Consumer Advocate") on January 15, 2002. The Consumer Advocate requests that the Hearing Officer order BellSouth Telecommunications, Inc. ("BellSouth") to respond to the attached interrogatories by January 25, 2002.

The procedural schedule memorialized in the December 31, 2001 *Order from November 30, 2001 Pre-Hearing Conference* requires that discovery be completed no later than January 15, 2002. With one exception,¹ that schedule is still in full force and effect. The Motion does not explain why the January 15th deadline should be extended or why the requested information could not have been sought during the expired discovery period. This fact and the facts that BellSouth should be heard on the Motion and pre-filed direct testimony is due on January 25th cause the Hearing Officer to request further justification from the Consumer Advocate and to shorten the response period afforded BellSouth by Authority Rule 1220-1-2-.06(2).² Moreover,

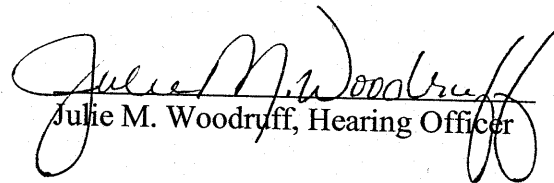
¹ The Hearing Officer waived the January 15th deadline for the depositions of the deponents listed in the *Notice of Deposition* filed on January 7, 2002 by Access Integrated Network, Inc. and XO Tennessee, Inc. See Transcript of Proceedings, Jan. 10, 2002, pp. 29-30 (Oral Arguments on *Motion to Make Documents Public*).

² See Tenn. R. & Regs. 1220-1-2-.06(2) (Sept. 2000, Rev.) (providing a party seven days after service to respond to a preliminary motion).

an initial review of the interrogatories attached to the Motion raises concern that BellSouth may have already provided at least some of the requested information. Therefore, the Hearing Officer directs the Consumer Advocate to state in its supplemental filing whether the requested information is included in BellSouth's previous responses to discovery.

IT IS THEREFORE ORDERED THAT:

The Consumer Advocate and Protection Division shall provide justification for its *Motion to Take Discovery* and state whether the requested information is included in BellSouth's previous responses to discovery in a supplemental filing due no later than **Thursday, January 17, 2002 at 2:00 p.m.** BellSouth shall file objections to the *Motion to Take Discovery*, if any, no later than **Friday, January 18, 2002 at 2:00 p.m.** The *Motion to Take Discovery* shall be deemed denied if the Consumer Advocate and Protection Division fails to meet the January 17, 2002 deadline.


Julie M. Woodruff, Hearing Officer

ATTEST:


K. David Waddell, Executive Secretary